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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,275	11/08/2001	Alain Yang	213399US0	5056

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EXAMINER

SINGH, ARTI R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/986,275

Applicant(s)

YANG ET AL.

Examiner

Ms. Arti Singh

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-5, 7-10 and 25-28.Claim(s) withdrawn from consideration: 6, 11-24, 29 and 30.

8. ☒ The drawing correction filed on 12 October 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Ms. Arti Singh
Primary Examiner
Art Unit: 1771

Continuation of 3. Applicant's reply has overcome the following rejection(s): the cancellation of claims 29 and 30 overcomes the 112-2 rejections.

Continuation of 5. does NOT place the application in condition for allowance because: first off, technically this should be non-compliant because it is not seen as to how claim 1 was amended, however in regard to Applicant's traversals; Applicant is traversing elements that are not commensurate in scope with the present claims. At present Applicant's claims are very broad and contain open claim language of "A thermal insulation product comprising....." The WO 97/20780 patent reads on this as they too are making insulation products, which contain loose fill, whether the post processing steps require the loose fill to be compacted or not still reads on the open language of Applicant's claims. As per the traversal of the range, the Examiner has to take the reference in its entirety and not just rely on the bits and pieces shown in the working examples. Would Applicant like their Application to be examined in the same way? A fair assessment lies in interpreting the reference as a whole and presuming that the patent works and is valid. Additionally, "above 5 micrometers" still is within Applicant's claimed range for their particle size. Perhaps closing up the language and specifically claiming what is being traversed may shed some light on the actual invention. With regard to the traversal of the backwards motivation statement, it is still motivation, and even if it is combustible they both i.e. Applicant and Patentee are utilizing it in the same field of endeavor.